

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
CRIMINAL CASE NO. 1:09cr73**

**UNITED STATES OF AMERICA,** )

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)

**vs.**

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**SCOTTIE W. BURNETT.** )

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**ORDER**

**THIS MATTER** is before the Court on the Defendant's Motion for *De Novo* Review by District Court [Doc. 20] and the Government's Motion to Enlarge Time for Response and Response to Defendant's Motion for Bill of Particulars [Doc. 25].

The Defendant is charged with possession of firearms by a fugitive from justice, in violation of 18 U.S.C. §922(g)(2). [Doc. 5]. Defense counsel moved for a bill of particulars "to specify the criminal charges giving rise to the allegation in the bill of indictment that the defendant was, at the time of the alleged offense, a 'fugitive from justice.'" [Doc. 12]. The Magistrate Judge denied the motion without prejudice to renewal, noting that the Government's open file policy and discovery would most likely supply the information sought. [Doc. 18].

Defense counsel then moved for review of the Magistrate Judge's

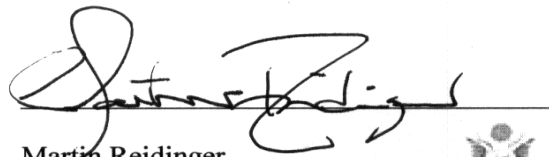
ruling. In response, the Government moved for additional time within which to prepare and deliver discovery, discovery which it states should render the Defendant's motion moot. The Government did point out, however, that defense counsel had not consulted with it regarding the specific information sought.

The Court agrees with the Magistrate Judge that the motion for a bill of particulars is premature. The Government has candidly admitted that it is attempting to obtain the information sought. In the event that the parties are not able to resolve this matter via the open file policy, the Defendant may renew this motion; however, no such motion should be filed without prior consultation with the Government and a statement to that effect.

**IT IS, THEREFORE, ORDERED** that the Defendant's Motion for *De Novo* Review by District Court [Doc. 20] is hereby **DENIED** without prejudice.

**IT IS FURTHER ORDERED** that the Government's Motion to Enlarge Time for Response [Doc. 25] is hereby **GRANTED**.

Signed: September 16, 2009

  
Martin Reidinger  
United States District Judge

